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PTO/SB/25 (08-04)

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REJECTION OVER A PENDING "REFERENCE" APPLICATION**

Docket Number (Optional)

F-7323

In re Application of: **Shokyu GEN**Application No.: **10/085,555**Filed: **February 27, 2002**For: **A FORMATIVE AGENT OF PROTEIN COMPLEX**

The owner, **MG Pharmacy Ltd.**, of **100** percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number **09/571,960** filed on **May 15, 2000**, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

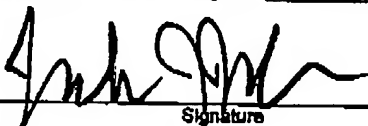
In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that: any such patent granted on the pending reference application; expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. **20,456**



Signature

September 26, 2005

Date

09/28/2005 STEUMEL1 00000044 10085555

Frank J. Jordan

01 FC:1814

130.00 OP

Typed or printed name

(212) 986-2340

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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Form PTO/SB/96 may be used for making this statement. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Docket No. F-7323

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

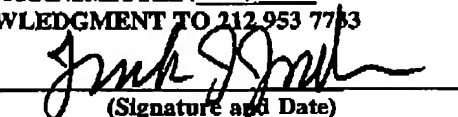
Applicant : Shokyu GEN
Serial No. : 10/085,555
Filed : February 27, 2002
For : A FORMATIVE AGENT OF PROTEIN COMPLEX
Group Art Unit : 1654
Examiner : Thomas Sweeney Heard
Confirmation No. : 9841
Customer No. : 000028107

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Frank J. Jordan
(Name)


(Signature and Date)

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COMMUNICATION FILING TERMINAL DISCLAIMER

Sir:

Attached hereto is a Terminal Disclaimer to obviate a provisional double patenting rejection over a pending reference application (U.S. Serial 09/571,960).

F7323 Communication (PC04) .wpd

Docket No. F-7323

Ser. No. 10/085,555

Please charge \$130.00 for filing this Terminal Disclaimer to Deposit Account 10-1250.

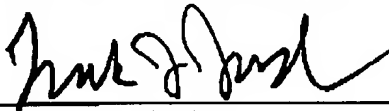
If there are any additional charges, please charge to the same Deposit Account No.

Applicant has separately filed on this date an Assignment for recording wherein the Assignee of the present application MG Pharmacy Ltd. assigns this instant application to BMG Incorporated. Accordingly, the instant application Serial No. 10/085,555 and pending application Serial No. 09/571,960 have a common assignee, that is, BMG Incorporated.

If there are any further charges in connection with filing this Communication, please charge to Patent Office Deposit Account No. 10-1250.

Respectfully submitted,

JORDAN AND HAMBURG LLP

By 

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FJJ/cj
Enc. Terminal Disclaimer

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